



June 14, 2011

Natural Resources, Tourism & Outdoor Recreation Committee  
Michigan House of Representatives  
P.O. Box 30014  
Lansing, MI 48909-7514

RE: House Bill 4578

Dear Chairman Foster and Committee Members:

MTA does not believe this legislation is necessary and feels it is an overreaction to limited situations where communities have effectively banned land application. We are opposed to House Bill 4578 as currently written.

Let me begin by giving a little bit of history. In 2004, legislation was signed into law to amend Part 117 of the Natural Resources and Environmental Protection Act of 1994 to further regulate the pumping, disposal and land application of septage. The 2004 amendments to the law were negotiated by MTA, the Michigan Septic Tank Association, DEQ and other interested stakeholders. The overall emphasis of the legislation was to enable the state to continue oversight of septage regulations and to eliminate bad actors in the septage hauler industry.

Under the legislation, some aspects of septage regulation were left to local units of government. One of those aspects was the ability to prohibit the land application of septage. While MTA does not encourage local townships to take this action, and in fact we discourage it, in some more highly urban communities it makes more sense to transport septage to septage receiving facilities rather than to land apply. In fact, until recently under state law, septage that was pumped within 15 miles of a septage receiving facility must go to that facility and not be land applied. As of October of last year (2010), this distance was expanded to 25 radial miles.

Under state law, if a local unit of government wants to effectively ban the land application of septage, it must make available a receiving facility that can lawfully accept septage waste generated within that governmental unit that is not lawfully applied to land. While court decisions have upheld a local unit's ability to take such action, the question that has arisen is what is a reasonable distance to require haulers to transport the septage.

This issue first arose in lamb-duck session last December when now former State Sen. Michelle McManus introduced a bill that would require any local unit of government that banned the land application of septage to build their own septage receiving facility to handle the septage waste.

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This was mainly in response to the situation with the Grand Traverse County Septage Treatment Facility, which handles septage waste for municipalities within Grand Traverse County and also Elmwood Township in Leelanau County. Unfortunately, the project has been faced with structural and over capacity issues that have led to financial deficits and, as a result, have caused rates for pumping septic tanks in those areas to rise faster than in most areas of the state. In other areas of the state, many counties have implemented a countywide land application ban and are functioning just fine.

Frankly, this legislation was ludicrous. In effect, this legislation could have literally meant that in townships alone there could be as many as 1,240 septage receiving facilities. In an era of government cooperation and efficiency to provide government services at a lower cost, this legislation made no sense whatsoever. Most communities on an individual basis would not have the capacity to have their own receiving facility. Fortunately, MTA was able to stop the legislation with relative ease.

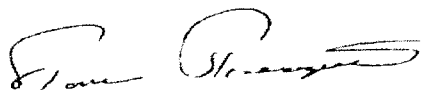
MTA is always concerned with efforts to pre-empt local units of government from adopting local ordinances. When the state tries to impose a one-size-fits-all philosophy, it is usually at the detriment of local governments and its citizens.

Despite our general philosophy against state efforts to pre-empt local authority, MTA is, and has been, willing to work with Rep. Goike and the Michigan Septic Tank Association on this issue. We have suggested that if a local unit of government wants to effectively ban the land application of septage and a septage receiving facility is located in the same county or within 25 miles of the local unit then that should be practical. Traveling within a county to dispose of the septage waste is reasonable. After all, in the northern areas of our state it's not uncommon for an individual septage hauler to cover multiple counties to pick up septage waste. Therefore, this doesn't seem to be unreasonable to travel within a single county from our standpoint.

In summary, I would hate to see legislation implemented that would take away local control in these types of situations to address a very limited number of questionable practices. However, if legislation is to be pursued further, it needs more discussion.

Thank you for your consideration of this important matter.

Sincerely,



Thomas E. Frazier  
Legislative Liaison